
By: **Delegates Morhaim and Boutin**

Introduced and read first time: February 3, 2004

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Advance Directive Availability Act**

3 FOR the purpose of requiring the Department of Health and Mental Hygiene to
4 provide certain information on an advance directive to an individual upon
5 application to certain assistance programs, and to make certain information on
6 an advance directive available in each local health department and local
7 department of social services; requiring the Motor Vehicle Administration to
8 provide certain information on an advance directive to an applicant for a driver's
9 license or identification card, and to provide a method by which an individual
10 can designate on the driver's license or identification card that the individual
11 has an advance directive; requiring an insurance carrier to provide certain
12 information on an advance directive in the carrier's marketing and open
13 enrollment materials; requiring information on an advance directive to include
14 certain written statements; requiring the Maryland Health Care Commission to
15 include certain data on advance directives in a certain annual evaluation;
16 requiring the Department of Health and Mental Hygiene to make a certain
17 report to certain committees of the General Assembly on or before a certain date;
18 requiring the Motor Vehicle Administration to make a certain report to certain
19 committees of the General Assembly on or before a certain date; defining certain
20 terms; and generally relating to increasing the availability of information on
21 advance directives.

22 BY repealing and reenacting, without amendments,
23 Article - Health - General
24 Section 5-601(a) and (b)
25 Annotated Code of Maryland
26 (2000 Replacement Volume and 2003 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article - Health - General
29 Section 5-615 and 19-134(c)
30 Annotated Code of Maryland
31 (2000 Replacement Volume and 2003 Supplement)

1 BY adding to
2 Article - Health - General
3 Section 15-109.1
4 Annotated Code of Maryland
5 (2000 Replacement Volume and 2003 Supplement)

6 BY adding to
7 Article - Insurance
8 Section 15-122.1
9 Annotated Code of Maryland
10 (2002 Replacement Volume and 2003 Supplement)

11 BY adding to
12 Article - Transportation
13 Section 12-303.1
14 Annotated Code of Maryland
15 (2002 Replacement Volume and 2003 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Health - General**

19 5-601.

20 (a) In this subtitle the following words have the meanings indicated.

21 (b) "Advance directive" means:

22 (1) A witnessed written document, voluntarily executed by the declarant
23 in accordance with the requirements of this subtitle; or

24 (2) A witnessed oral statement, made by the declarant in accordance
25 with the provisions of this subtitle.

26 5-615.

27 (a) In this section, "health care facility" has the meaning stated in § 19-114 of
28 this article.

29 (b) Each health care facility shall provide each individual on admittance to the
30 facility information concerning the rights of the individual to make decisions
31 concerning health care, including the right to accept or refuse treatment, and the
32 right to make an advance directive, including a living will.

33 (C) (1) IN THIS SUBSECTION, "INFORMATION ON AN ADVANCE DIRECTIVE"
34 INCLUDES:

1 (I) WRITTEN STATEMENTS INFORMING AN INDIVIDUAL THAT AN
2 ADVANCE DIRECTIVE:

3 1. IS A USEFUL, LEGAL, AND WELL-ESTABLISHED WAY FOR
4 AN INDIVIDUAL TO DIRECT MEDICAL CARE;

5 2. ALLOWS AN INDIVIDUAL TO SPECIFY THE MEDICAL CARE
6 THAT THE INDIVIDUAL WILL RECEIVE AND CAN ALLEVIATE CONFLICT AMONG
7 FAMILY MEMBERS AND HEALTH CARE PROVIDERS;

8 3. CAN ENSURE THAT AN INDIVIDUAL'S RELIGIOUS BELIEFS
9 ARE CONSIDERED WHEN DIRECTING MEDICAL CARE;

10 4. IS MOST EFFECTIVE IF COMPLETED IN CONSULTATION
11 WITH FAMILY MEMBERS, OR LEGAL AND RELIGIOUS ADVISORS, IF AN INDIVIDUAL
12 DESIRES;

13 5. CAN BE REVOKED OR CHANGED AT ANY TIME;

14 6. IS AVAILABLE IN MANY FORMS, INCLUDING MODEL
15 FORMS DEVELOPED BY RELIGIOUS ORGANIZATIONS, ESTATE PLANNERS, AND
16 LAWYERS;

17 7. DOES NOT HAVE TO BE ON ANY SPECIFIC FORM AND CAN
18 BE PERSONALIZED; AND

19 8. IF COMPLETED, SHOULD BE COPIED FOR AN INDIVIDUAL'S
20 FAMILY MEMBERS, PHYSICIANS, AND LEGAL ADVISORS; AND

21 (II) THE FOLLOWING WRITTEN STATEMENTS:

22 1. THAT AN INDIVIDUAL SHOULD DISCUSS THE
23 APPOINTMENT OF A HEALTH CARE AGENT WITH THE POTENTIAL APPOINTEE;

24 2. THAT ADVANCE DIRECTIVES ARE FOR INDIVIDUALS OF
25 ALL AGES, AND THAT THE MOST NOTEWORTHY CASES IN ADVANCE DIRECTIVE LAW
26 INVOLVE INDIVIDUALS UNDER AGE 30;

27 3. IN THE ABSENCE OF AN APPOINTED HEALTH CARE
28 AGENT, THE NEXT OF KIN MAKE AN INDIVIDUAL'S HEALTH CARE DECISIONS WHEN
29 THE INDIVIDUAL IS INCAPABLE OF MAKING THOSE DECISIONS; AND

30 4. THAT AN INDIVIDUAL IS NOT REQUIRED TO COMPLETE AN
31 ADVANCE DIRECTIVE.

32 (2) INFORMATION ON AN ADVANCE DIRECTIVE SHALL BE PROVIDED BY:

33 (I) THE DEPARTMENT, IN ACCORDANCE WITH § 15-109.1 OF THIS
34 ARTICLE;

1 (II) THE MOTOR VEHICLE ADMINISTRATION, IN ACCORDANCE WITH
2 § 12-303.1 OF THE TRANSPORTATION ARTICLE; AND

3 (III) A CARRIER, IN ACCORDANCE WITH § 15-122.1 OF THE
4 INSURANCE ARTICLE.

5 15-109.1.

6 (A) IN THIS SECTION, "INFORMATION ON AN ADVANCED DIRECTIVE" HAS THE
7 MEANING STATED IN § 5-615(C) OF THIS ARTICLE.

8 (B) THE DEPARTMENT SHALL:

9 (1) PROVIDE INFORMATION ON AN ADVANCE DIRECTIVE TO AN
10 INDIVIDUAL ON APPLICATION TO THE:

11 (I) PROGRAM;

12 (II) MARYLAND PHARMACY ASSISTANCE PROGRAM;

13 (III) MARYLAND PRESCRIPTION DRUG PROGRAM; AND

14 (IV) ANY OTHER ASSISTANCE PROGRAM OFFERED BY THE
15 DEPARTMENT.

16 (2) MAKE INFORMATION ON AN ADVANCE DIRECTIVE AVAILABLE IN A
17 CONSPICUOUS LOCATION IN EACH LOCAL HEALTH DEPARTMENT AND LOCAL
18 DEPARTMENT OF SOCIAL SERVICES.

19 19-134.

20 (c) (1) The Commission shall:

21 (i) Establish and implement a system to comparatively evaluate
22 the quality of care outcomes and performance measurements of health maintenance
23 organization benefit plans and services on an objective basis; and

24 (ii) Annually publish the summary findings of the evaluation.

25 (2) The purpose of a comparable performance measurement system
26 established under this subsection is to assist health maintenance organization benefit
27 plans to improve the quality of care provided by establishing a common set of
28 performance measurements and disseminating the findings of the performance
29 measurements to health maintenance organizations and interested parties.

30 (3) The system, where appropriate, shall solicit performance information
31 from enrollees of health maintenance organizations.

32 (4) (i) The Commission shall adopt regulations to establish the system
33 of evaluation provided under this subsection.

1 (ii) Before adopting regulations to implement an evaluation system
 2 under this subsection, the Commission shall consider any recommendations of the
 3 quality of care subcommittee of the Group Health Association of America and the
 4 National Committee for Quality Assurance.

5 (5) The Commission may contract with a private, nonprofit entity to
 6 implement the system required under this subsection provided that the entity is not
 7 an insurer.

8 (6) The annual evaluation summary required under paragraph (1) of this
 9 subsection shall:

10 (i) Include a summary of the Drug Formulary Accreditation
 11 Standards of the National Committee for Quality Assurance (NCQA); [and]

12 (ii) Indicate whether the formulary development process of each
 13 health maintenance organization evaluated complies with the National Committee
 14 for Quality Assurance (NCQA) accreditation standards; AND

15 (III) INCLUDE DATA ON THE NUMBER OF ADULTS IN EACH HEALTH
 16 MAINTENANCE ORGANIZATION EVALUATED WHO:

17 1. ARE PROVIDED INFORMATION ON AN ADVANCE
 18 DIRECTIVE, IN ACCORDANCE WITH § 5-615(C) OF THE HEALTH - GENERAL ARTICLE;
 19 AND

20 2. HAVE COMPLETED AN ADVANCE DIRECTIVE.

21 **Article - Insurance**

22 15-122.1.

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 24 INDICATED.

25 (2) "ADVANCE DIRECTIVE" HAS THE MEANING STATED IN § 5-601 OF THE
 26 HEALTH - GENERAL ARTICLE.

27 (3) "CARRIER" MEANS:

28 (I) AN INSURER;

29 (II) A NONPROFIT HEALTH SERVICE PLAN;

30 (III) A HEALTH MAINTENANCE ORGANIZATION;

31 (IV) A MANAGED CARE ORGANIZATION; AND

32 (V) ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS
 33 SUBJECT TO REGULATION BY THE STATE.

1 (4) "INFORMATION ON AN ADVANCE DIRECTIVE" HAS THE MEANING
2 STATED IN § 5-615(C) OF THE HEALTH - GENERAL ARTICLE.

3 (B) A CARRIER SHALL PROVIDE INFORMATION ON AN ADVANCE DIRECTIVE IN
4 THE CARRIER'S MARKETING AND OPEN ENROLLMENT MATERIALS.

5 **Article - Transportation**

6 12-303.1.

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (2) "ADVANCE DIRECTIVE" HAS THE MEANING STATED IN § 5-601 OF THE
10 HEALTH - GENERAL ARTICLE.

11 (3) "INFORMATION ON AN ADVANCE DIRECTIVE" HAS THE MEANING
12 STATED IN § 5-615(C) OF THE HEALTH - GENERAL ARTICLE.

13 (B) THE ADMINISTRATION SHALL PROVIDE FOR A METHOD BY WHICH AN
14 APPLICANT FOR A DRIVER'S LICENSE OR IDENTIFICATION CARD:

15 (1) IS PROVIDED INFORMATION ON AN ADVANCE DIRECTIVE; AND

16 (2) MAY DESIGNATE THAT THE APPLICANT HAS AN ADVANCE
17 DIRECTIVE.

18 (C) IF THE APPLICANT DESIGNATES THAT THE APPLICANT HAS AN ADVANCE
19 DIRECTIVE, THE ADMINISTRATION SHALL MAKE A NOTATION THAT THE APPLICANT
20 HAS AN ADVANCE DIRECTIVE ON THE DRIVER'S LICENSE OR IDENTIFICATION CARD
21 ISSUED TO THE APPLICANT.

22 (D) AT THE TIME THE APPLICANT AUTHORIZES THE ADVANCE DIRECTIVE
23 NOTATION ON THE DRIVER'S LICENSE OR IDENTIFICATION CARD, THE
24 ADMINISTRATION SHALL NOTIFY THE APPLICANT THAT THE ADVANCE DIRECTIVE
25 NOTATION CAN BE REMOVED ONLY ON WRITTEN NOTICE TO THE ADMINISTRATION.

26 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of
27 Health and Mental Hygiene and the Motor Vehicle Administration each shall report
28 to the Senate Education, Health, and Environmental Affairs Committee and the
29 House Health and Government Operations Committee on or before October 1, 2005,
30 in accordance with § 2-1246 of the State Government Article, on the implementation
31 of this Act, by the Department and the Administration, respectively.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2004.